IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 2ND NOVEMBER 2007 / 11TH KARTHIKA 1929

Crl.MC.No. 246 of 2006()

[CRIME NO.366/2006 OF PANANGAD POLICE STATION]

PETITIONER: ACCUSED NO.1 & 2

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1. C.P. MADHU, S/O. LATE C.K. PRASANNA,
ADAYATHPARAMBU, PERUMBOTTA ROAD, KOCHI.

2. SARADA PRASANNAN, AGED 60 YEARS,
S/O. LATE C.K. PRASANNAN, ADAYATHPARAMBU,
PERUMBOTTA ROAD, KOCHI.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.R.O.MUHAMED SHEMEEM
SRI.T.P.SAJID

RESPONDENTS: DEFACTO COMPLAINANT:

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1. MANJU BALAN, TEACHER,
BHAVAN VIDYAMANDHIR, ELAMAKKARA,
ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY
GOVERNMENT PLEADER, HIGH COURT OF KERALA.

BY ADV. SRI.DEEPU THANKAN
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 02/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.246 of 2006

Dated this the 2nd day of November 2007

O R D E R

Against the petitioners, a crime has been registered as crime No.366/2005 of Panangad police station raising allegations under Section 498A read with 34 I.P.C. The crime, in turn was registered on the basis of a private complaint filed by the de facto complainant, that is the second respondent herein. That complaint was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. It is at this stage that the petitioners, the husband and mother-in-law of the de facto complainant have come before this court with this petition. The short prayer is that the powers under Section 482 Cr.P.C may be invoked to quash the F.I.R. Investigation is in progress, it is submitted. The first respondent/wife has also entered appearance through counsel. It is submitted at the Bar that the matter has been settled between the parties amicably. The marital tie has been brought to termination. The petitioners and the first respondent have filed a joint application for composition.

2. I am satisfied from the submissions made at the Bar and the joint statement filed by the rival contestants duly

countersigned by their respective counsel that the dispute have been settled and the first respondent has compounded the offence allegedly committed by the petitioners. If legally permissible, I am satisfied that the composition can be accepted and premature termination of the proceedings can be brought about. But the offence under Section 498A I.P.C is not legally compoundable under Section 320 Cr.P.C. The learned counsel for the parties, in these circumstances, rightly rely on the decision of the Supreme Court in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such circumstances, the stipulations of Section 320 Cr.P.C cannot be held to fetter the sweep, width and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that this is an eminently fit case where the powers under Section 482 Cr.P.C, as explained in the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can and ought to be invoked and proceedings initiated against the respondents by the petitioner brought to premature termination.

3. The learned Public Prosecutor also submits that the State has no objection in the further proceedings in the crime being quashed.

4. In the result, this petition is allowed. Crime No.366/05 pending before Panangad police station and all further proceedings taken in pursuance of the same is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007